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MAILED

APR 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Von Arx, et al.	:	
Application No. 10/025,183	:	DECISION ON APPLICATION
Filed: December 19, 2001	:	FOR
Atty Docket No.279.391US1	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed December 28, 2009. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from one hundred and ten (110) days to one hundred and sixty-seven (167) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the patent term adjustment determination at the time of the mailing of the notice of allowance is **one hundred and sixty-seven (167) days** (385 days of Office delay - 218 days of applicant delay). A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On September 28, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 110 days. Applicants timely filed the instant application for patent term adjustment.¹ Specifically, applicants state that:

Applicants have calculated that correct patent term adjustment as 167 days, which was calculated as follows:

The date that is three months after the Office Action

¹ PALM finance records indicate the issue fee was paid on December 28, 2009.

(Mailed on December 10, 2008) is March 10, 2008. Applicants' compliant response to the first Office Action was received by the USPTO on May 12, 2008. The difference between these two dates is 63 days debit from Applicants' patent term. However, the USPTO has debited from Applicants' patent term the above 63 days twice in the calculations (i.e., $63 + 63 + 126$ Days). Additionally, the date that is four months after the Response to the above Office action (Response Received on May 12, 2008) is September 12, 2008. The Notice of Allowance was mailed by the USPTO on September 18, 2008. The difference between these two dates is 6 days credit to Applicants' patent term. However, the USPTO has credited to the Applicants' patent term, the above 6 days twice in the calculations (i.e., $6 + 6 + 12$ Days). Omitting the duplications, the PTA now becomes 167 Days instead of 110 Days as calculated in PAIR PTA.

Excerpt taken from "Statement of Facts under 37 CFR 1.705(b)(2) in Support of Application for Patent Term Adjustment", filed December 28, 2009, pg. 1.

Applicants' argument is well taken and is supported by a review of the file record. The record supports the conclusion of a duplicate entry of the reduction to the patent term adjustment of 63 days pursuant to 37 CFR 1.704(b) for the filing of a response May 12, 2008, three months and sixty-three days after a non-final Office action was mailed December 10, 2007. Accordingly, the duplicate entry of the period of reduction of 63 days is being removed.

Further, the record supports the conclusion of a duplicate entry of the adjustment to the patent term of 6 days pursuant to 37 CFR 1.702(a)(2) and 37 CFR 1.703(a)(2) for the mailing of a Notice of Allowance and Issue Fee Due on September 14, 2009, four months and six days after a response was filed on May 12, 2008. Accordingly, the duplicate entry of the period of adjustment of 6 days is being removed.

The Office acknowledges receipt of the \$200.00 fee as set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the

Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

A handwritten signature in black ink, appearing to read 'Anthony Knight', is written over the printed name.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Monday
Date: 4/19/2010

PALM INTRANET

Time: 08:37:42

PTA Calculations for Application: 10/025183

Application Filing Date:	12/19/2001	PTO Delay (PTO):	391
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	281
Post-Issue Petitions:	0	Total PTA (days):	167
PTO Delay Adjustment:	57		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
160	04/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	57		
149	09/28/2009	MAIL NOTICE OF ALLOWANCE			
148	09/17/2009	ISSUE REVISION COMPLETED			
147	09/17/2009	DOCUMENT VERIFICATION			
146	09/17/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
145	09/14/2009	NOTICE OF ALLOWABILITY			
144	06/12/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
143	06/12/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
136	06/12/2009	REFERENCE CAPTURE ON IDS			
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134	06/12/2009	RESPONSE AFTER NON-FINAL ACTION		24	128
133	06/12/2009	MISCELLANEOUS INCOMING LETTER			
132	06/12/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
131	06/12/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
130	06/12/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
129	06/12/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
128	02/19/2009	MAIL NON-FINAL REJECTION			
127	02/17/2009	NON-FINAL REJECTION			
126	12/17/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
121	12/17/2008	REFERENCE CAPTURE ON IDS			

120	12/17/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
119	01/10/2009	DATE FORWARDED TO EXAMINER			
118	12/17/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
117	01/10/2009	DISPOSAL FOR A RCE / CPA / R129			
116	12/17/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
115	12/17/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
114	10/24/2008	FINISHED INITIAL DATA CAPTURE			
113	10/14/2008	WORKFLOW - QUERY REQUEST - FINISH			
112	09/26/2008	EXPORT TO INITIAL DATA CAPTURE			
111	09/18/2008	MAIL NOTICE OF ALLOWANCE	6		101
111	09/18/2008	MAIL NOTICE OF ALLOWANCE	6		101
110	09/07/2008	ISSUE REVISION COMPLETED			
110	09/07/2008	ISSUE REVISION COMPLETED			
109	09/17/2008	DOCUMENT VERIFICATION			
109	09/17/2008	DOCUMENT VERIFICATION			
108	09/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
108	09/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
107	09/11/2008	NOTICE OF ALLOWABILITY			
107	09/11/2008	NOTICE OF ALLOWABILITY			
102	07/02/2008	DATE FORWARDED TO EXAMINER			
102	07/02/2008	DATE FORWARDED TO EXAMINER			
101	05/12/2008	RESPONSE AFTER NON-FINAL ACTION		63	99
101	05/12/2008	RESPONSE AFTER NON-FINAL ACTION		63	99
100	05/12/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
100	05/12/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
99	12/10/2007	MAIL NON-FINAL REJECTION			
99	12/10/2007	MAIL NON-FINAL REJECTION			
98	12/07/2007	NON-FINAL REJECTION			
96	10/30/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
95	10/30/2007	REFERENCE CAPTURE ON IDS			
94	10/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

93	11/01/2007	DATE FORWARDED TO EXAMINER			
92	10/30/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
91	11/01/2007	DISPOSAL FOR A RCE / CPA / R129			
90	10/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
89	10/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
88	10/08/2007	PUBS CASE REMAND TO TC			
87	10/12/2007	WORKFLOW - QUERY REQUEST - BEGIN			
86	09/17/2007	EXPORT TO INITIAL DATA CAPTURE			
85	09/14/2007	MAIL NOTICE OF ALLOWANCE			
84	09/12/2007	ISSUE REVISION COMPLETED			
83	09/12/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
82	09/12/2007	DOCUMENT VERIFICATION			
81	08/17/2007	NOTICE OF ALLOWABILITY			
77	06/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
76	07/23/2007	PARALEGAL TD ACCEPTED			
75	07/02/2007	DATE FORWARDED TO EXAMINER			
74	06/26/2007	RESPONSE AFTER NON-FINAL ACTION			
73	06/26/2007	TERMINAL DISCLAIMER FILED			
72	06/26/2007	REFERENCE CAPTURE ON IDS			
71	06/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
70	06/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
69	03/26/2007	MAIL NON-FINAL REJECTION			
68	03/19/2007	NON-FINAL REJECTION			
67	01/31/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
66	01/31/2007	MISCELLANEOUS INCOMING LETTER			
65	02/06/2007	DATE FORWARDED TO EXAMINER			
64	01/31/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
63	02/06/2007	DATE FORWARDED TO EXAMINER			
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60	01/31/2007				
59	01/31/2007	REFERENCE CAPTURE ON IDS			
58.7	01/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
58	01/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	01/31/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
56	07/31/2006	MAIL FINAL REJECTION (PTOL - 326)			
55	07/24/2006	FINAL REJECTION			
54	05/15/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	05/24/2006	DATE FORWARDED TO EXAMINER			
52	05/15/2006	RESPONSE AFTER NON-FINAL ACTION			
51.7	05/15/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
51	05/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	02/15/2006	MAIL NON-FINAL REJECTION			
49	02/13/2006	NON-FINAL REJECTION			
48	01/06/2006	DATE FORWARDED TO EXAMINER			
47	01/03/2006	APPEAL BRIEF FILED			
46	01/03/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	08/29/2005	NOTICE OF APPEAL FILED		4	44
44	05/25/2005	MAIL FINAL REJECTION (PTOL - 326)			
43	05/24/2005	FINAL REJECTION			
42	04/15/2005	REFERENCE CAPTURE ON IDS			
41.7	04/15/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	04/15/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	04/21/2005	DATE FORWARDED TO EXAMINER			
39	04/15/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
38	04/21/2005	DATE FORWARDED TO EXAMINER			
37	04/15/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		2	34
36	04/21/2005	DISPOSAL FOR A RCE / CPA / R129			
35	04/15/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
34	01/13/2005	MAIL FINAL REJECTION (PTOL - 326)			

33	01/12/2005	FINAL REJECTION			
32	12/06/2004	REFERENCE CAPTURE ON IDS			
31.7	12/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	12/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	12/17/2004	DATE FORWARDED TO EXAMINER			
29	12/06/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
28	12/17/2004	DATE FORWARDED TO EXAMINER			
27	12/06/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)		33	22
26	12/17/2004	DISPOSAL FOR A RCE / CPA / R129			
25	12/06/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	12/06/2004	WORKFLOW INCOMING AMENDMENT IFW			
23	12/06/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
22	08/03/2004	MAIL FINAL REJECTION (PTOL - 326)			
21	08/02/2004	FINAL REJECTION			
20	07/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	07/07/2004	DATE FORWARDED TO EXAMINER			
18	06/04/2004	RESPONSE AFTER NON-FINAL ACTION			
17	03/01/2004	REFERENCE CAPTURE ON IDS			
16	06/04/2004	WORKFLOW INCOMING AMENDMENT IFW			
15.7	03/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	03/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/04/2004	MAIL NON-FINAL REJECTION	379		-1
13	03/03/2004	NON-FINAL REJECTION			
12	02/17/2004	CASE DOCKETED TO EXAMINER IN GAU			
11.7	06/09/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/09/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10.7	05/24/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	05/24/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

9	06/12/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	05/01/2002	APPLICATION DISPATCHED FROM OIPE			
7	04/30/2002	APPLICATION IS NOW COMPLETE			
6	04/08/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
5	04/08/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	01/30/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	01/03/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/19/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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